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John J. Bach
PRESIDENT

Jeffrey W. Cannell
DIRECTOR

February 2, 2003

Secretary
Federal Communications Commission
Washington, DC 20554

Reference: CC Docket No. 02-6
Proceeding Number: DA 03-114, Released January 15, 2003

Please accept this letter as a petition of reconsideration regarding Proceeding Number DA 03-114, released January 15, 2003. I have enclosed a copy of the FCC decision and I am asking the Commission to overturn the Review for Request that was denied on behalf of the Albany Public Library.

The crux of this case is very simple – I made a mistake when I dated the following Year 4 FRN's:

FRN 697429

FRN 697566

FRN 696707

FRN 697567

FRN 696716

FRN 697568

Instead of inserting 1/17/01, the correct and actual date, I mistakenly inserted 1/16/01. I understand that federal programs need to have and maintain strict guidelines, but I am surprised that an honest human error is the reason that the Albany Public Library loses \$39,099. The referenced FRN's are for the same services that the Library has always applied for – this application contained no new services. Since the 471's were actually signed on January 17, 2001, the Albany Public Library did follow the rules set forth in SLD program and the competitive bidding process for the requested services was followed. Again, we did wait the 28 days before entering into an agreement with our Service Providers, I just made the mistake of inserting the wrong date on Block 6 of the 471.

I have included a copy of Jeffrey Cannell's, Director of the Albany Public Library, January 2001 calendar. This calendar is offered as more than sufficient alternative evidence to show that the Form 471's were signed on January 17, 2001. As his calendar shows, we met on January 17, 2001 at 9:00 a.m. to sign all of Albany Public Library's Form 471, Block 6, Line 34 certification pages. I am also including a copy of the Express Mail receipt that shows that the forms were mailed on 1/17/01 at 11:25 a.m. I believe the Express Mail receipt and the calendar entry show that the Albany Public Library did comply with the competitive bidding process. The Express Mail receipt supports that the forms were filed correctly and also show that my human error was to blame for the incorrect date being listed.

Again, I am asking the Commission to overturn the original decision to denying the Albany Public Library the erate funds associated with DA 03-114, January 15, 2003.

Sincerely,

Patrice M. Hollman
Albany Public Library, Erate Coordinator
(518) 427-4325

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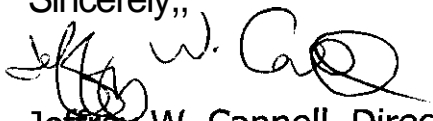
February 2, 2003

Secretary
Federal Communications Commission
Washington, DC 20554

Reference: CC Docket No. 02-6
Proceeding Number: DA 03-114, Released January 15, 2003

Please accept this letter and the attached copy of my January 2001 calendar. As the brief entry states, I met with Patrice Hollman on January 17, 2001 at 9:00a.m. to sign all the 471 Block 6 certification pages. Patrice is correct in her assertion that she did make a mistake when entering the date. I certify that the enclosed calendar is correct and that it supports the assertion that Patrice Hollman is stating in her letter that requests that the original Commission decision be overturned.

Sincerely,,



Jeffrey W. Cannell, Director
(518) 427-4379



Federal Communications Commission
Washington, D.C. 20554

Memo

By 2/14/03

To: Patrice Hollman, E-rate Coordinator
Albany Public Library

From: Mark G. Seifert, Deputy Chief
Telecommunications Access Policy Division
Wireline Competition Bureau

Date: January 15, 2003

Re: DA 03-1 14. Released January 15, 2003

NO NEW
CONTRACTS
~~RENEWING~~
renewing
services
human
error

Please find accompanying this memo the Commission's decision on your Request for Review. The accompanying decision may be referenced in the future by its Proceeding Number and release date: DA 03-1 14, January 15, 2003.

If you are not satisfied with this decision, you may file a petition for reconsideration with the Commission within 30 days of the release date of the decision.¹ However, the petition will generally be granted only if it demonstrates an error in the decision based upon (1) facts which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters; or (2) facts unknown to petitioner until after the Request for Review was filed and which could not, through the exercise of ordinary diligence, have been learned prior to that time.² Petitions for reconsideration are decided by the Wireline Competition Bureau of the Commission.

You may also file an application for review with the Commission if you are displeased with this decision. Your application for review must be filed within 60 days of the release date of the decision pursuant to section 1.115(c) of our rules. Please note that the application for review will not be granted if it relies on questions of fact or law upon which the designated

¹ See 47 C.F.R. § 1.106(f).

² See 47 C.F.R. § 1.106(b)(2)

authority has been afforded no opportunity to pass? Applications for review are decided by the full Commission.

Petitions for reconsideration and applications for review should be submitted to the Secretary, Federal Communications Commission, Washington, D.C., 20554, they should reference CC Docket No. 02-6 as well as the Proceeding Number of the decision from which relief is sought, and should otherwise conform to the requirements the Commission's rules.⁴

If you have any questions regarding the foregoing, feel free to contact the Telecommunications Access Policy Division at (202) 418-7400.

³ See *Implementation of Interim Filing Procedures for Filings of Requests for Review*, Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Order, FCC-376, 17 FCC Rcd 339 (2002). See 47 U.S.C. § 1.115(c).

⁴ See 47 C.F.R. § 1.106, 1.115.

**Before the
Federal Communications Commission
Washington, DC 20551**

In the Matter of)	
)	
Request for Review of the)	
Decision of the)	
Universal Service Administrator by)	
)	
Albany Public Library)	File Nos. SLD-264946,
Albany, New York)	264948,264968,264975
)	
Federal-State Joint Board on)	CC Docket No. 96-45
Universal Service)	
)	
Changes to the Board of Directors of the)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.)	

ORDER

Adopted: January 14,2003**Released: January 15,2003**

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Albany Public Library (Albany), Albany, New York.¹ Albany seeks review of a decision by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company to deny Albany's applications for discounted services under the schools and libraries universal service support mechanism.² For the reasons set forth below, we deny the Request for Review.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules provide that, with one limited exception for existing, binding contracts, an eligible school, library or consortium that includes eligible schools or libraries must seek

¹ Letter from Patricia M. Hollman, Albany Public Library, to the Federal Communications Commission, filed January 3, 2002 (Request for Review).

² Letters from Schools and Libraries Division, Universal Service Administrative Company, to Patricia M. Hollman, Albany Public Library, dated July 23, 2001 (Funding Commitment Decision Letters); Letters from Schools and Libraries Division, Universal Service Administrative Company, to Patricia M. Hollman, Albany Public Library, dated October 1, 2001 (Administrator's Decision on Appeal Letters).

³ 47 C.F.R. §§ 54.502, 54.503

competitive bids for all services eligible for support.⁴ In accordance with the Commission's rules, an applicant must file with SLD, for posting to its website, an FCC Form 470 requesting services.⁵ The applicant must wait **28** days before entering into an agreement with a service provider for the requested services and submitting an FCC Form 471 requesting support for the services ordered by the **applicant**.⁶ Further, the instructions for the FCC Form 471 state that the date of signature for the FCC Form 471 "CANNOT be earlier than the 29th day following the posting of the associated FCC Form 470 to the [SLD] Web Site."

3. Upon review of the record, we conclude that SLD correctly denied Albany's request for support.⁸ Albany's FCC Form 470 was posted on December 20, 2000.⁹ Under the program rules, Albany was not permitted to sign and submit its FCC Form 471 until after the end of the 28-day competitive bidding period, on January 17, 2001.¹⁰ However, Albany signed its form on January 16, 2001.¹¹ Albany maintains that it actually signed and submitted its Form 471 on January 17, 2001 but that in preparing the FCC Form 471, the wrong date was inadvertently written down.¹² In support of its claim, Albany has enclosed a copy of its mail receipt for its Form 471 dated January 17, 2001.¹³

4. A signature date on an FCC Form 471 or on a service provider agreement that predates the expiration of the 28-day posting period indicates that the applicant failed to wait 28 days before entering into an agreement with a service provider and therefore violated the

⁴ 47 C.F.R. §§ 54.504, 54.511(c).

⁵ See Schools and Libraries Universal Service. Description of Services Requested and Certification Form. OMB 3060-0806 (FCC Form 470).

⁶ 47 C.F.R. § 54.504(c); see Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (FCC Form 471).

⁷ Instructions for Completing the Schools and Libraries Universal Service Services Ordered and Certification Form (December 1998) at 24 (FCC Form 471 Instructions).

⁸ SLD initially denied Albany's funding request because SLD misunderstood Albany's FCC Form 471 as requesting an 80 percent discount for internal connections. On appeal, SLD determined that Albany had actually requested the discount for telecommunications services in compliance with program rules. However, SLD still denied Albany's funding request because upon review, it determined that Albany had signed its FCC Form 471 prior to waiting 28 days after its FCC Form 470 had been posted in violation of the Commission's rules. See Administrator's Decision on Appeal Letters at 1-2.

⁹ See FCC Forms 470. Albany Public Library, filed December 29, 2000.

¹⁰ See *id.*; 47 C.F.R. § 54.504(b)(4).

¹¹ See FCC Forms 471. Albany Public Library, filed January 16, 2001 (Block 6 certification page bearing January 16, 2001 as the date of signature).

¹² See Request for Review at 2.

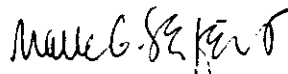
¹³ See *id.* The United States Postal Service Express Mail receipts are dated January 17, 2001 and the United States Postal Service Express Mail packages are postmarked January 17, 2001.

Commission's competitive bidding rules.¹⁴ Except in limited instances, the Wireline Competition Bureau has consistently denied requests for review by applicants that had violated the Commission's 28-day competitive bidding requirement.¹⁵

5. In the present case, Albany has not provided sufficient alternative evidence establishing that it erroneously signed its FCC Form 471 after the 28-day waiting period. Albany has only provided the Commission with a copy of its FCC Form 471 mail receipt. Although this receipt does provide evidence of that Albany submitted its FCC Form 471 on January 17, 2001, it fails to establish conclusively that Albany signed its application on that same date. As a result, we find that Albany has failed to provide the Commission with persuasive evidence that demonstrates that it complied with the Commission's competitive bidding requirements. We, therefore, deny Albany's Request for Review.

6. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Albany Public Library, Albany, New York, on January 31, 2002, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifer

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau

¹⁴ See *Request for Review by Minor High School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-139210, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 13790, 13792, para. 5 (Com. Car. Bur. 2000).

¹⁵ See *Request for Review by Cathedral Grade School, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-87608, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2953 (Com. Car. Bur. rel. December 21, 1999); *Request for Review by Currituck County Schools Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-111040, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 5564 (Com. Car. Bur. 2000); *Request for Review by Gustine Independent School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. SLD-108651, CC Docket Nos. 96-45 and 97-21, Order, DA 99-2534 (Com. Car. Bur. rel. November 16, 1999). In such limited cases, due to the use of the on-line application process available on SLD's website, the applicant was able to clearly establish that it erroneously entered the wrong date on its FCC Form 471 which resulted in denial of its funding request. Specifically, applicants choosing the on-line filing method were required to print out a Block 6 certification page at the end of the on-line filing process and then, after signing and dating the certification page, were required to separately submit it by mail. In the event a carrier erroneously entered the wrong date, the actual date of printing was visible at the bottom of the Block 6 certification page. Therefore, in these limited cases, although an applicant's FCC Form 471 may have reflected a signature date prior to the expiration of the 28-day waiting period, the printing date on the signature page demonstrated that the signature page entered by the applicant was erroneous.

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 350060 45.00
 ANNETTE # 05
 01-17-01 11:25:16

CUSTOMER RECEIPT

090 POSTAGE STAMPS	16.00
090 POSTAGE STAMPS	.68
(\$.34 x 2)	
TOTAL	16.68
CASH T	16.68
CHANGE	.00

*** THANK YOU ***



Flat Rate Envelope	
Postage \$ 16.00	
Return Receipt Fee	
COD Fee	Insurance Fee
Total Postage & Fees \$ 16.00	

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NO DELIVERY <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	
1274325 lic on Ave. 112210	TO: (PLEASE PRINT) PHONE (888) 203 8100 SLD - Form 471 c/o Ms. Smith 3833 Greenway Dr. Lawrence, KS 66046

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Well done is better than well said.

— Ben Franklin

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